

Introduced by Senator Wyland

February 21, 2014

An act to amend Section 1747.02 of the Civil Code, relating to credit cards.

LEGISLATIVE COUNSEL'S DIGEST

SB 1355, as introduced, Wyland. Credit cards: billing inquiries.

Existing state and federal law regulates the provision of credit and the use of credit cards. The Song-Beverly Credit Card Act of 1971 generally regulates credit card transactions and includes definitions of terms used in this law. Under existing law, a credit card issuer that fails to give a timely response to an inquiry of a cardholder concerning any debit or credit applicable to an obligation incurred through the use of a credit card is not entitled to specified interest, finance charges, service charges, or other charges thereon. Existing law defines "inquiry" as a writing mailed to the card issuer that is received by the card issuer no later than 60 days after the card issuer transmitted the first periodic statement with the alleged billing error, as specified.

This bill would increase the amount of time a credit cardholder is allowed to dispute a billing error, by increasing the current 60 days to one year.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1747.02 of the Civil Code is amended
- 2 to read:
- 3 1747.02. As used in this title:

1 (a) “Credit card” means any card, plate, coupon book, or other
2 single credit device existing for the purpose of being used from
3 time to time upon presentation to obtain money, property, labor,
4 or services on credit. “Credit card” does not mean any of the
5 following:

6 (1) Any single credit device used to obtain telephone property,
7 labor, or services in any transaction under public utility tariffs.

8 (2) Any device that may be used to obtain credit pursuant to an
9 electronic fund transfer, but only if the credit is obtained under an
10 agreement between a consumer and a financial institution to extend
11 credit when the consumer’s asset account is overdrawn or to
12 maintain a specified minimum balance in the consumer’s asset
13 account.

14 (3) Any key or card key used at an automated dispensing outlet
15 to obtain or purchase petroleum products, as defined in subdivision
16 (c) of Section 13401 of the Business and Professions Code, that
17 will be used primarily for business rather than personal or family
18 purposes.

19 (b) “Accepted credit card” means any credit card that the
20 cardholder has requested or applied for and received or has signed,
21 or has used, or has authorized another person to use, for the purpose
22 of obtaining money, property, labor, or services on credit. Any
23 credit card issued in renewal of, or in substitution for, an accepted
24 credit card becomes an accepted credit card when received by the
25 cardholder, whether the credit card is issued by the same or a
26 successor card issuer.

27 (c) “Card issuer” means any person who issues a credit card or
28 the agent of that person for that purpose with respect to the credit
29 card.

30 (d) “Cardholder” means a natural person to whom a credit card
31 is issued for consumer credit purposes, or a natural person who
32 has agreed with the card issuer to pay consumer credit obligations
33 arising from the issuance of a credit card to another natural person.
34 For purposes of Sections 1747.05, 1747.10, and 1747.20, the term
35 includes any person to whom a credit card is issued for any
36 purpose, including business, commercial, or agricultural use, or a
37 person who has agreed with the card issuer to pay obligations
38 arising from the issuance of that credit card to another person.

39 (e) “Retailer” means every person other than a card issuer who
40 furnishes money, goods, services, or anything else of value upon

1 presentation of a credit card by a cardholder. “Retailer” shall not
2 mean the state, a county, city, city and county, or any other public
3 agency.

4 (f) “Unauthorized use” means the use of a credit card by a
5 person, other than the cardholder, (1) who does not have actual,
6 implied, or apparent authority for that use and (2) from which the
7 cardholder receives no benefit. “Unauthorized use” does not include
8 the use of a credit card by a person who has been given authority
9 by the cardholder to use the credit card. Any attempted termination
10 by the cardholder of the person’s authority is ineffective as against
11 the card issuer until the cardholder complies with the procedures
12 required by the card issuer to terminate that authority.
13 Notwithstanding the above, following the card issuer’s receipt of
14 oral or written notice from a cardholder indicating that it wishes
15 to terminate the authority of a previously authorized user of a credit
16 card, the card issuer shall follow its usual procedures for precluding
17 any further use of a credit card by an unauthorized person.

18 (g) An “inquiry” is a writing that is posted by mail to the address
19 of the card issuer to which payments are normally tendered, unless
20 another address is specifically indicated on the statement for that
21 purpose, then to that other address, and that is received by the card
22 issuer no later than ~~60 days~~ *one year* after the card issuer
23 transmitted the first periodic statement that reflects the alleged
24 billing error, and that does all of the following:

25 (1) Sets forth sufficient information to enable the card issuer to
26 identify the cardholder and the account.

27 (2) Sufficiently identifies the billing error.

28 (3) Sets forth information providing the basis for the
29 cardholder’s belief that the billing error exists.

30 (h) A “response” is a writing that is responsive to an inquiry
31 and mailed to the cardholder’s address last known to the card
32 issuer.

33 (i) A “timely response” is a response that is mailed within two
34 complete billing cycles, but in no event later than 90 days, after
35 the card issuer receives an inquiry.

36 (j) A “billing error” means an error by omission or commission
37 in (1) posting any debit or credit, or (2) in computation or similar
38 error of an accounting nature contained in a statement given to the
39 cardholder by the card issuer. A “billing error” does not mean any

1 dispute with respect to value, quality, or quantity of goods, services,
2 or other benefit obtained through use of a credit card.

3 (k) “Adequate notice” means a printed notice to a cardholder
4 that sets forth the pertinent facts clearly and conspicuously so that
5 a person against whom it is to operate could reasonably be expected
6 to have noticed it and understood its meaning.

7 (l) “Secured credit card” means any credit card issued under an
8 agreement or other instrument that pledges, hypothecates, or places
9 a lien on real property or money or other personal property to
10 secure the cardholder’s obligations to the card issuer.

11 (m) “Student credit card” means any credit card that is provided
12 to a student at a public or private college or university and is
13 provided to that student solely based on his or her enrollment in a
14 public or private university, or is provided to a student who would
15 not otherwise qualify for that credit card on the basis of his or her
16 income. A “student credit card” does not include a credit card
17 issued to a student who has a cocardholder or cosigner who would
18 otherwise qualify for a credit card other than a student credit card.

19 (n) “Retail motor fuel dispenser” means a device that dispenses
20 fuel that is used to power internal combustion engines, including
21 motor vehicle engines, that processes the sale of fuel through a
22 remote electronic payment system, and that is in a location where
23 an employee or other agent of the seller is not present.

24 (o) “Retail motor fuel payment island automated cashier” means
25 a remote electronic payment processing station that processes the
26 retail sale of fuel that is used to power internal combustion engines,
27 including motor vehicle engines, that is in a location where an
28 employee or other agent of the seller is not present, and that is
29 located in close proximity to a retail motor fuel dispenser.